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Syn. No. 30
1/22/02

Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012


Dear Supervisors:

**CONDITIONAL USE PERMIT NUMBER 99-132(5)
FIFTH SUPERVISORIAL DISTRICT / THREE-VOTE MATTER**

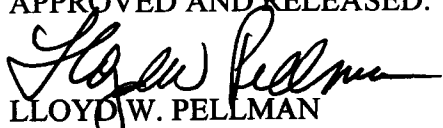
Your Board previously conducted an appeal hearing regarding the Regional Planning Commission's approval of the above-referenced permit which proposes the sale of beer and wine for off-site consumption at a small market in the Littlerock Zoned District. At the conclusion of the hearing, you indicated an intent to approve the permit with revised conditions and instructed us to prepare the appropriate findings and conditions for approval. Enclosed are proposed findings and conditions for your consideration.

Very truly yours,

LLOYD W. PELLMAN
County Counsel

By 
RICHARD D. WEISS
Principal Deputy County Counsel
Public Works Division

APPROVED AND RELEASED:


LLOYD W. PELLMAN
County Counsel

RDW/
Enclosure

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
CONDITIONAL USE PERMIT NUMBER 99-132(5)**

1. The applicant is requesting authorization to sell beer and wine for off-site consumption at a small market within an existing commercial shopping plaza. A Regional Planning Department Hearing Officer previously approved this request. That approval was appealed to the Regional Planning Commission, which, in turn, approved the application with conditions. The Regional Planning Commission's approval was appealed to the Board of Supervisors.
2. The subject property is zoned C-3 (Unlimited Commercial) and is located in the Littlerock Zoned District.
3. Pursuant to Section 22.28.210 of Title 22 of the Los Angeles County Code ("Zoning Ordinance"), the sale of alcoholic beverages for off-site consumption is permissible in the C-3 zone, provided that a conditional use permit has first been obtained.
4. Pursuant to Section 22.56.195 of the Zoning Ordinance, a conditional use permit is also required to authorize the sale of alcoholic beverages at establishments that do not currently, but propose to, sell alcoholic beverages for off-site consumption.
5. The subject leasehold is 4,000 square feet in size and is located at 8714 East Avenue T, Littlerock.
6. The project site is designated "Commercial" in the Countywide General Plan. This classification allows for a range of mixed commercial and retail uses. The proposal is consistent with the provisions of this land use category.
7. The current land use on the subject property is a 19-unit commercial plaza.
8. The site plan contained on page 1 of Exhibit "A," on file at the Department of Regional Planning, depicts an existing one-story commercial plaza that includes a restaurant, a bar, a liquor store, retail shops, and three vacant suites. The site plan also depicts 96 uncovered parking spaces (20 compact, 2 handicapped, and 74 standard parking spaces) and 2,697 square feet of landscaping. Access to the site is via East Avenue T to the north and North 87th Street East to the west.

9. The applicant's convenience store floor plan, contained on page 2 of Exhibit "A," depicts product shelving, cashier areas, office, restrooms, and the beer and wine display areas. The floor plan shows beer and wine in the cooler section. However, the applicant has agreed, and the conditions of approval for this grant provide, that the sale of chilled alcoholic beverages will not be permitted so as to discourage consumption of such beverages immediately after purchase. Only room temperature display and sale of alcoholic beverages will be allowed.
10. Since other establishments selling alcoholic beverages exist within 500 feet of the subject property, the applicant is limited to having not more than 5 percent of its total display shelf space devoted to alcoholic beverage sales. The applicant's floor plan shows approximately 1.5 percent of the available shelf space devoted to the sale of beer and wine.
11. Regional Planning Department staff contacted investigators from the Sheriff's Department during case processing to determine whether that department had any concerns regarding the establishment of an additional facility selling alcoholic beverages in the immediate vicinity of the subject property. The Sheriff's Department representatives indicated that they had no specific concerns over another establishment being approved to sell beer and wine for off-site consumption in this area.
12. Regional Planning Department staff also made contact with a representative of the California State Highway Patrol who also expressed little concern over the establishment of another facility to sell beer and wine for off-site consumption in this area. The representative indicated that he did not feel the use would add significantly to the traffic or cause congestion in the area. He stated that the four-way stop that currently exists at the corner of East Avenue T and North 87th Street is the safest type of traffic control for that location.
13. Regional Planning Department staff received communications during case processing from another tenant in the commercial plaza in which the subject property is located who expressed opposition to the proposal on the basis that there already were two establishments in the plaza that sold beer and wine.
14. Staff received two letters and one petition from Littlerock community members in opposition to this request. The letters and petition submitted in opposition to the request indicated opposition due to the following: 1) there are already two establishments which sell beer and wine within the plaza; and 2) the possibility of added crime, violence, and traffic congestion in the area. The petition contains 70 signatures from local area residents.

15. Staff received a letter from the Pastor of The Orchard, a local church and school, in opposition to the request. The Orchard is opposed to the issuance of another license to sell liquor in the community. However, the church and school are not located within 600 feet of the subject property.
16. Staff also received one petition in favor of the request to sell beer and wine for off-site consumption at the market while the matter was pending before the Planning Commission. The petition contains 764 signatures from local area residents who frequent the market.
17. The applicant requested authorization to sell beer and wine for off-site consumption between the hours of 8:00 a.m. to 10:00 p.m., seven days a week.
18. The other establishments within 500 feet of the project site which sell alcoholic beverages have the following hours of operation:

<u>Joshua Liquor</u> 8714 E. Avenue T, #A Full line of alcohol for off-site Hours of operation: - 7:00 a.m. to 2:00 a.m. (7) days a week	<u>J.J.'s Tavern</u> 8714 E. Avenue T, #F, G Beer and wine for on-site Hours of operation: - 9:00 a.m. to 2:00 a.m. (7) days a week
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19. Regional Planning Department records indicate that Conditional Use Permit No. 96-085-(5) was granted to establish a gas station with a mini-mart allowed to sell beer and wine for off-site consumption located at the southwest corner of 87th Street East and Avenue T, Littlerock. This location is the corner directly west of the subject property. However, this site has not been developed at this time.
20. The commercial plaza within which the subject market is located was approved by Plot Plan ("PP") No. 36206 in October of 1987 without the subject market being depicted. The subject market was added in a revision to PP 36206 on January 25, 1999, when the previous owner, a "slot car shop," left the plaza and the market moved in and began operations.
21. The parking calculations for the commercial shopping plaza were determined under PP No. 36206 and verified under the revised plot plan approved January 25, 1999.

Parking Requirement

Commercial - Convenience Store

1 space/250 square feet of building space

Parking Calculations

4,000 square feet/250 = 16 spaces required

Site Plan

The applicant's site plan shows the required parking to be located within the shopping center parking area. The site plan depicts 96 uncovered parking spaces (76 standard, 20 compact, 2 handicapped). The existing parking is adequate to accommodate the 16 spaces required for the use.

22. The Board of Supervisors ("Board") finds that the sale of beer and wine for off-site consumption at the subject market will not adversely affect the use of a place used exclusively for religious worship, school park, playground, or any similar use. None of these sensitive uses are situated within 600 feet of the subject property.
23. The Board finds that the sale of beer and wine for off-site consumption at the subject market is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect the residential area because the beer and wine will be located inside an existing 4,000-square-foot market. In addition, the rear of the market is separated from residences by a 24-foot-wide loading zone.
24. The Board finds that the sale of beer and wine for off-site consumption at the subject market will not result in an undue concentration of similar premises considering that the zoning in that area, as is typical for rural areas, clusters areas of C-3 zoning adjacent to A-1 (Light Agriculture – one acre minimum lot size required) zoned neighborhoods for the convenience of the residents. The closest commercial shopping plaza or market of any type is approximately one and one-half miles from the subject property. Additionally, the sale of beer and wine at this location is distinctly different from the sale of alcohol at the nearby liquor store and bar. While the sale of alcohol at these other facilities is a primary feature, the sale of beer and wine at the proposed location is accessory to the sale of other goods thereby making it convenient for persons who may choose not to frequent the liquor store or bar.

25. The Zoning Ordinance requires consideration of the number of establishments selling alcohol within 500 feet of the subject property to evaluate whether an undue concentration of alcohol sales exists. However, the Zoning Ordinance authorizes the Board to find that the public convenience outweighs potential adverse impacts associated with a concentration of multiple alcoholic beverage sales establishments. The Board makes this finding based on the aforementioned reasoning.
26. The Board finds that because the subject market will be prohibited from devoting more than 5 percent of its total shelf space to beer and wine sales and will be permitted to sell warm beer and wine only (no refrigerated shelf space, cooler, or ice tub display), the requested use at the proposed location will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, and general welfare of persons residing or working in the area.
27. The Board finds that the sale of beer and wine for off-site consumption at the subject market will serve the public convenience based upon the petition received by County staff with 764 signatures from local area residents that frequent the market who are in favor of the granting of the conditional use permit to allow such sale.
28. The Board finds that the sale of beer and wine for off-site consumption at the subject market will not adversely affect the economic welfare of the surrounding community because such sales will not likely deter patrons from shopping at the other businesses in the commercial plaza.
29. With respect to the appeal, the Board finds that the appellant failed to substantiate her appeal. The appellant's contention that authorizing the request will lead to an over concentration of establishments selling alcoholic beverages has been rejected by the Board as described above. The appellant's contention that authorizing the request will increase criminal activity in the area is also rejected by the Board. The applicant has operated the market for approximately a year and one-half without any criminal incidents or zoning violations.
30. Additionally, as agreed, the applicant will be required to purchase an existing alcoholic beverage license from the California Department of Alcoholic Beverage Control, rather than apply for a new license, thereby not increasing the total number of licenses issued by the state in the vicinity.

31. The Board finds that the proposal qualifies for a categorical exemption under the California Environmental Quality Act pursuant to Class 1 of the County's Environmental Document Reporting Procedures and Guidelines.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, and not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, and general welfare;
- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping, and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use would generate and by other public or private facilities as are required;
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground, or any similar use within a 600-foot radius;
- F. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area;
- G. The requested use at the proposed location will not result in an undue concentration of similar premises, and the public convenience or necessity for the proposed facility selling alcoholic beverages for off-site consumption outweighs the fact that it is located within 500 feet of any other facility selling alcoholic beverages for either on-site or off-site consumption. The shelf space devoted to alcoholic beverages shall be limited to not more than 5 percent of the total shelf space in the establishment;
- H. Compatibility with surrounding land uses will be ensured through implementation of the attached conditions;

- I. The requested use will not adversely affect the economic welfare of the nearby community;
- J. The sale of beer and wine at this location will not tend to create a law enforcement problem; and
- K. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood, so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

THEREFORE, THE BOARD OF SUPERVISORS finds that this proposal is categorically exempt under the provisions of the California Environmental Quality Act and approves this conditional use permit, subject to the attached conditions.

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NUMBER 99-132(5)

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and the fees pursuant to Condition No. 8 have been remitted.
3. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any other applicable limitation period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall, within ten days of the filing, pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including, but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code section 2.170.010.

5. This grant will expire unless used within two years from the date of approval. A one-year time extension may be requested before the expiration date.
6. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
7. This grant will terminate June 1, 2012. Entitlement to use of the subject property for the sale of beer and wine for off-site consumption thereafter shall be subject to the regulations then in effect.
8. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County the sum of \$1,000. The fee shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fee provides for 10 annual inspections. If any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance.
9. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.
10. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

11. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
12. All structures shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.
13. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises.
14. In the event of such extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
15. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A." In the event that subsequent revised plans are submitted, the written authorization of the property owner is necessary.
16. This grant allows for the sale of beer and wine for off-site consumption at a market within an existing commercial shopping plaza, subject to the following conditions:
 - a. The sale of alcoholic beverages shall be permitted between the hours of 8:00 a.m. to 10:00 p.m., seven days per week;
 - b. No beer or wine shall be displayed within five feet of the cash register or the front door;
 - c. No sale of alcoholic beverages shall be made from a drive-in window;
 - d. No display or sale of beer or wine shall be made from an ice tub, cooler, or any type of refrigerated shelf space. This grant allows for non-refrigerated shelf sales (warm) of beer and wine only;
 - e. No self-illuminating advertising for beer or wine shall be located on buildings or windows;

- f. Telephone numbers of local law enforcement shall be posted adjacent to the cashier's area;
- g. The shelf space devoted to alcoholic beverage sales shall not exceed 5 percent of the total shelf space within the subject market;
- h. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or windows of the subject market or at any location on the subject property;
- i. Signage shall be posted within the beer/wine section of the store notifying the public in both English and the predominant second language in the neighborhood that it is a violation of the California State Vehicle Code to transport open containers of alcoholic beverages within the passenger compartment of a motor vehicle;
- j. The permittee shall not sell domestic beer in containers under one quart in less than six-pack quantities;
- k. There shall be no wine, with the exception of wine coolers, sold in containers of less than 750 milliliters. No miniatures of any type may be sold. Wine coolers shall not be sold in less than four-pack quantities;
- l. There shall be no alcoholic beverages consumed in open areas adjacent to the subject market under the control of the permittee;
- m. There shall be no loitering permitted on the premises under the control of the permittee. Signage shall be posted on the premises prohibiting loitering. The signage shall be in English and the predominant second language in the neighborhood;
- n. The permittee shall post signage in the market prohibiting consumption of alcoholic beverages on site. The signage shall be in English and the predominant second language in the neighborhood;

- o. The permittee shall provide adequate lighting above the entrance of the premises. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises;
 - p. Permittee shall instruct all employees in the regulations regarding no loitering and no on-site consumption of beer and wine. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
 - q. The permittee shall maintain the property in a neat and orderly fashion and maintain free of litter all areas on the premises under which the permittee has control;
 - r. The permittee shall not install or maintain video games on site;
 - s. The licensed premises shall have no other coin-operated amusements at any time (such as small carousel rides or similar riding machines) other than official State Lottery machines;
 - t. No ice in quantities of less than two pounds shall be sold, furnished, or given away;
 - u. Public telephones located in front of the premises shall be for outgoing calls only.
17. The permittee's use of this permit shall be conditioned upon the permittee purchasing or otherwise acquiring an existing alcoholic beverage sales license that had been used by another establishment in the Antelope Valley, as close to the subject property as possible.